

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-1000.01 Ed DeCecco x4216

HOUSE BILL 23-1304

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A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE AFFORDABLE HOUSING**
102 **PROGRAMS CREATED BY THE VOTERS' APPROVAL OF**
103 **PROPOSITION 123.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

At the general election in 2022, voters approved proposition 123, which created new affordable housing programs funded with income tax revenue that the state is permitted to retain and spend as a voter-approved revenue change. 60% of the dedicated revenue is allocated to the affordable housing financing fund (financing fund) for 3 new affordable

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

SENATE
Amended 2nd Reading
May 3, 2023

HOUSE
3rd Reading Unamended
April 29, 2023

HOUSE
Amended 2nd Reading
April 26, 2023

housing programs. This money is continuously appropriated to the office of economic development (office), which is required to give the money to an administrator selected by the office to administer the programs. 40% of the dedicated revenue is allocated to the affordable housing support fund (support fund), which is continuously appropriated to the division of housing for 3 other affordable housing programs, including the land planning capacity development program.

Local governments that seek additional affordable housing funding from these programs must commit to increasing the number of affordable housing units within the local government by 3% annually and expedite development approvals for affordable housing projects (conditions for funding). The funding for the new affordable housing programs is prohibited from supplanting existing state appropriations for affordable housing programs (maintenance of effort requirement).

The bill modifies the affordable housing programs by:

- Allowing tribal governments to participate in the programs, subject to the same conditions for funding;
- Requiring the division of local government, rather than the division of housing, to administer the land planning capacity development program and continuously appropriating money in the support fund to the division of local government for that purpose;
- Allowing the office to use a portion of the money in the financing fund for its administrative expenses, without increasing the total amount of money from the fund that may be used for administrative expenses;
- Clarifying that, for the affordable housing programs administered by the administrator, the area median income and rent levels are designated for each rental unit instead of being recalculated on a monthly basis and that the average area median income calculation does not apply to the modular and factory build manufacturer debt program;
- Clarifying the description of how money is transferred or allocated;
- For purposes of the 3% growth obligation that is a condition for funding, specifying that all units from projects funded through certain affordable housing programs are counted towards the obligation and allowing local governments and tribal governments to enter into a written agreement to divvy up the units that result from collaborative agreements;
- Establishing a process for rural resort communities to petition the division of housing to use different percentages of area median income than those percentages specified for eligibility for certain affordable housing programs funded

- through the financing fund;
- Exempting money originally from the federal coronavirus state fiscal recovery fund from the appropriations for fiscal year 2022-23 that are used to determine the state's maintenance of effort requirement; and
- Requiring the office and the division of housing to provide 3 annual reports to legislative committees about the affordable housing programs.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 29-32-101, **amend**
3 (2); and **add** (10) and (11) as follows:

4 **29-32-101. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (2) "Affordable housing" means rental housing affordable to a
7 household with an annual income of at or below sixty percent of the area
8 median income, and that costs the household less than thirty percent of its
9 monthly income. "Affordable housing" also means for-sale housing that
10 could be purchased by a household with an annual income of at or below
11 one hundred percent of the area median income, for which the mortgage
12 payment costs the household less than thirty percent OR LESS of its
13 monthly income. Targets set for the local governments AND TRIBAL
14 GOVERNMENTS under section 29-32-105 for affordable housing shall be
15 based on the ~~average of the~~ area median income. If a local government OR
16 TRIBAL GOVERNMENT determines that application of this definition of
17 affordable housing would cause implementation of this article in a
18 manner inconsistent with DEMONSTRATED housing and workforce needs
19 within the jurisdiction, it may petition the division for leave to use the
20 calculation applicable to an adjacent jurisdiction or the state median
21 income that better reflects THE local GOVERNMENT'S OR TRIBAL

1 GOVERNMENT'S DEMONSTRATED needs.

2 (10) "RURAL RESORT COMMUNITY" MEANS ANY COUNTY
3 CLASSIFIED AS A "RURAL RESORT" BY THE DIVISION IN ACCORDANCE WITH
4 SECTION 29-4-1107 (1)(d), OR A MUNICIPALITY, WHETHER HOME RULE OR
5 STATUTORY, OR A LOCAL HOUSING AUTHORITY LOCATED WITHIN THE
6 COUNTY SO CLASSIFIED.

7 (11) "TRIBAL GOVERNMENT" MEANS A FEDERALLY RECOGNIZED
8 TRIBAL NATION THAT HAS LAND WITHIN COLORADO.

9 **SECTION 2.** In Colorado Revised Statutes, 29-32-103, **amend**
10 (1) and (2) as follows:

11 **29-32-103. Transfers of money - permitted uses of the fund -**
12 **continuous appropriation.** (1) The affordable housing support fund is
13 hereby created in the state treasury. The support fund shall consist of
14 money deposited into it under subsection (3) of this section. The division
15 OF HOUSING shall administer the support fund and expend the ~~moneys~~
16 MONEY in the support fund only for the purposes set forth in ~~section~~
17 ~~29-32-104 (3)~~ SECTION 29-32-104 (3)(a) AND (3)(b). THE DIVISION OF
18 LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN
19 SECTION 24-32-103 SHALL EXPEND THE MONEY IN THE SUPPORT FUND
20 ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104 (3)(c). All
21 money not expended or encumbered, and all interest earned on the
22 investment or deposit of money in the support fund, shall remain in the
23 support fund and shall not revert to the general fund or any other fund at
24 the end of any fiscal year. All money transferred to the support fund
25 pursuant to subsection (3) of this section is continuously appropriated to
26 the division OF HOUSING for the purposes set forth in ~~section 29-32-104~~
27 ~~(3)~~ SECTIONS 29-32-104 (3)(a) AND (3)(b) AND, TO THE EXTENT

1 ALLOCATED BY THE DIVISION OF HOUSING, TO THE DIVISION OF LOCAL
2 GOVERNMENT FOR THE PURPOSES SET FORTH IN SECTION 29-32-104 (3)(c).

3 (2) The affordable housing financing fund is hereby created in the
4 state treasury. The financing fund shall consist of money deposited into
5 it under subsection (3) of this section. The office shall administer the
6 financing fund and expend the ~~moneys~~ MONEY in the financing fund only
7 for the purposes set forth in section 29-32-104 (1) AND FOR THE OFFICE'S
8 ADMINISTRATIVE EXPENSES RELATED TO THE PROGRAMS CREATED IN THAT
9 SECTION. All money not expended or encumbered, and all interest earned
10 on the investment or deposit of money in the financing fund, shall remain
11 in the financing fund and shall not revert to the general fund or any other
12 fund at the end of any fiscal year. All money transferred to the financing
13 fund pursuant to subsection (3) of this section is continuously
14 appropriated to the office for the purposes set forth in section 29-32-104
15 (1) AND THIS SECTION.

16 **SECTION 3.** In Colorado Revised Statutes, 29-32-104, **amend**
17 (1) introductory portion, (1)(a), (1)(b), (1)(c)(III), (1)(c)(IV), and (3); and
18 **add** (1)(c)(V) and (4) as follows:

19 **29-32-104. Permissible expenditures - affordable housing**
20 **programs - report.** (1) The office shall contract with the administrator.
21 The office may select an administrator without a competitive procurement
22 process but shall announce the contract opening publicly and select the
23 administrator in a meeting that is open to the public, no less than
24 seventy-two hours after notice of such meeting is publicly available. No
25 single contract may exceed five years in duration. Upon the expiration of
26 any contract term, the office may renew the contract with the same
27 administrator or may select another administrator. The administrator

1 selected by the office shall expend the money transferred to the financing
2 fund in section 29-32-103 (2) THAT THE ADMINISTRATOR RECEIVES FROM
3 THE OFFICE to support the following programs only:

4 (a) A land banking program to be administered by the
5 administrator. The program shall provide grants to local governments
6 AND TRIBAL GOVERNMENTS and loans to non-profit organizations with a
7 demonstrated history of providing affordable housing to acquire and
8 preserve land for the development of affordable housing. FOR PURPOSES
9 OF THIS SUBSECTION (1)(a), "AFFORDABLE HOUSING" MEANS RENTAL
10 HOUSING THAT HAS A DESIGNATED IMPUTED INCOME LIMIT BY HOUSEHOLD
11 SIZE NOT TO EXCEED SIXTY PERCENT OF THE AREA MEDIAN INCOME AS
12 ESTABLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
13 URBAN DEVELOPMENT AND PUBLISHED BY THE DEPARTMENT OR A
14 STATEWIDE POLITICAL SUBDIVISION OR AUTHORITY ON HOUSING, AND
15 REGULATED UNITS IN THE PROJECT MUST HAVE A GROSS RENT LIMIT THAT
16 DOES NOT EXCEED THIRTY PERCENT OF THE IMPUTED INCOME LIMITATION
17 APPLICABLE TO THE UNITS AND FOR-SALE HOUSING THAT COULD BE
18 PURCHASED BY A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW
19 ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME. Mixed use
20 development is an allowable use of land purchased under this program if
21 the ~~predominate~~ PREDOMINANT use of the land is affordable housing.
22 Loans made by the program shall be forgiven if land acquired with the
23 assistance of the program is properly zoned with an active plan for the
24 development of affordable housing within 5 years of date the loan is made
25 and if the development is permitted and funded within 10 years. The
26 lender and borrower may establish additional terms if needed. If land
27 acquired with the assistance of the program is not developed within the

1 timeline above, the loan must be repaid, with interest, as soon as practical,
2 but not more than six months after expiration of said timeline, UNLESS
3 THE OFFICE AGREES TO EXTEND ALL OR A PORTION OF THE TIMELINE IN ITS
4 REASONABLE DISCRETION. Land acquired with the assistance of the
5 program that is not developed within the timeline above may be used by
6 the owner for any purpose upon payment of the loan with interest or, in
7 exchange for a waiver of interest, conveyed to a state agency or other
8 entity for the development of affordable housing with the approval of the
9 administrator. All principal and interest payments on loans made under
10 this paragraph (a) shall be paid to the administrator and used by the
11 administrator for the purposes set forth in this subsection (1). As
12 determined by the administrator, a minimum of 15% and a maximum of
13 25% of monies transferred to ~~the office from~~ the FINANCING fund
14 annually may be used for the program. The administrator may utilize ~~up~~
15 ~~to two percent~~ of the funds it receives from the office for the program
16 ~~annually~~ to pay for the costs of administering the program; EXCEPT THAT
17 THE TOTAL COMBINED ANNUAL ADMINISTRATIVE EXPENDITURES OF
18 MONEY FROM THE FINANCING FUND BY THE ADMINISTRATOR AND THE
19 OFFICE SHALL NOT EXCEED TWO PERCENT OF THE FUNDS THE
20 ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE PROGRAM FOR THE
21 STATE FISCAL YEAR.

22 (b) An affordable housing equity program to be administered by
23 the administrator. The program shall make equity investments in low- and
24 middle-income multi-family rental developments. The program shall also
25 make equity investments in existing ~~affordable housing~~ projects which
26 include multi-family rental units for the purpose of ensuring that said
27 projects remain affordable. The average ~~of rents~~ DESIGNATED IMPUTED

1 INCOME BY HOUSEHOLD SIZE for projects funded by the program
2 (~~calculated by adding together the monthly rent for all units in a project~~
3 ~~and dividing by the number of units in the project)~~ must not exceed be
4 ~~and remain permanently affordable such that a participating household~~
5 ~~shall not be required to spend more than 30% of household income on~~
6 ~~rent for households that are at or below 90% of the area median income~~
7 ~~of households of that size in the territory or jurisdiction of local~~
8 ~~government in which the housing is located, as calculated and published~~
9 ~~for a given year~~ MUST NOT EXCEED 90% OF THE AREA MEDIAN INCOME AS
10 ESTABLISHED by the United States Department of Housing and Urban
11 Development AND PUBLISHED BY THE DEPARTMENT OR A STATEWIDE
12 POLITICAL SUBDIVISION OR AUTHORITY ON HOUSING, AND REGULATED
13 UNITS IN THE PROJECT MUST HAVE A GROSS RENT LIMIT THAT DOES NOT
14 EXCEED THIRTY PERCENT OF THE IMPUTED INCOME LIMITATION
15 APPLICABLE TO THE UNITS. The program shall include a tenant equity
16 vehicle, meaning, in projects funded by the program, tenants who reside
17 in the project for at least one year shall be entitled to a share of the equity
18 growth in the project, if any, in the form of funding from the program for
19 a down-payment on housing or related purposes, WHICH MAY ALSO
20 INCLUDE ONGOING OPPORTUNITIES FOR TENANTS TO BUILD UP THEIR
21 SAVINGS, in an amount determined by the administrator. Equity
22 investments made by the program shall be made with the expectation of
23 returns that are below the prevailing market returns. Returns on program
24 investments up to the amount of the program's initial investment shall be
25 retained in the program and reinvested. Returns on program investments
26 greater than the program's initial investment shall be retained in the
27 program to fund the tenant equity vehicle. In selecting investments under

1 this program, the administrator shall prioritize high-density housing,
2 mixed-income housing, and projects consistent with the goal of
3 environmental sustainability. As determined by the administrator, a
4 minimum of 40% of monies and a maximum of 70% of monies
5 transferred to ~~the office from the~~ FINANCING fund annually may be used
6 for the program. The administrator may utilize ~~up to two percent of the~~
7 funds it receives from the office for the program ~~annually~~ to pay for the
8 costs of administering the program; EXCEPT THAT THE TOTAL COMBINED
9 ANNUAL ADMINISTRATIVE EXPENDITURES OF MONEY FROM THE FINANCING
10 FUND BY THE ADMINISTRATOR AND THE OFFICE SHALL NOT EXCEED TWO
11 PERCENT OF THE FUNDS THE ADMINISTRATOR RECEIVES FROM THE OFFICE
12 FOR THE PROGRAM FOR THE STATE FISCAL YEAR.

13 (c) A concessionary debt program to be administered by the
14 administrator. The program shall:

15 (III) Provide debt financing of existing ~~affordable housing~~
16 projects for the purpose of preserving existing affordable multi-family
17 rental units; ~~and~~

18 (IV) Provide debt financing for modular and factory build housing
19 manufacturers; AND

20 (V) INCLUDE THE FOLLOWING FEATURES:

21 (A) **[formerly second sentence of 29-32-104 (1)(c)(IV)]** The
22 average ~~of rents~~ DESIGNATED IMPUTED INCOME BY HOUSEHOLD SIZE for
23 projects funded by the ~~program (calculated by adding together the~~
24 ~~monthly rent for all units in a project and dividing by the number of units~~
25 ~~in the project) must be and remain permanently affordable (meaning that~~
26 ~~a household shall not be required to spend more than 30% of household~~
27 ~~income on rent and basic utilities) for households that are at or below~~

1 60% of the area median income of households of that size in the territory
2 or jurisdiction of local government in which the housing is located, as
3 calculated and published for a given year SUBPROGRAMS SPECIFIED IN
4 SUBSECTIONS (1)(c)(I), (1)(c)(II), AND (1)(c)(III) OF THIS SECTION MUST
5 NOT EXCEED 60% OF THE AREA MEDIAN INCOME AS ESTABLISHED by the
6 United States Department of Housing and Urban Development AND
7 PUBLISHED BY THE DEPARTMENT OR A STATEWIDE POLITICAL SUBDIVISION
8 OR AUTHORITY ON HOUSING, AND A UNIT IN THE PROJECT MUST HAVE A
9 GROSS RENT LIMIT THAT DOES NOT EXCEED THIRTY PERCENT OF THE
10 IMPUTED INCOME LIMITATION APPLICABLE TO THE UNIT; ~~(the affordability~~
11 ~~threshold)~~; except that where the **program** SUBPROGRAM is a secondary
12 source of funding, the affordability threshold required by the primary
13 funding source, if any, may be operative. THE SUBPROGRAM SPECIFIED IN
14 SUBSECTION (1)(c)(IV) OF THIS SECTION DOES NOT HAVE A DESIGNATED
15 IMPUTED INCOME OR RENT LIMIT. Debt financing and loans made by the
16 program shall be made at below market interest rates as determined by the
17 administrator. Returns on program investments up to the amount of the
18 program's initial investment shall be retained in the program and
19 reinvested by the administrator in the program established in this
20 ~~paragraph (c)~~ SUBSECTION (1)(c). Returns on program investments greater
21 than the program's initial investment shall be retained in the program to
22 fund the tenant equity vehicle of the affordable housing equity program
23 created in subsection (1)(b) of this section.

24 (B) **[formerly last two sentences of 29-32-104 (1)(c)(IV)]** As
25 determined by the administrator, a minimum of 15% of monies and a
26 maximum of 35% of monies transferred to ~~the office from the~~ FINANCING
27 fund annually may be used for the program. The administrator may utilize

1 ~~up to two percent~~ of the funds it receives from the office for the program
2 ~~annually~~ to pay for the costs of administering the program; EXCEPT THAT
3 THE TOTAL COMBINED ANNUAL ADMINISTRATIVE EXPENDITURES OF
4 MONEY FROM THE FINANCING FUND BY THE ADMINISTRATOR AND THE
5 OFFICE SHALL NOT EXCEED TWO PERCENT OF THE FUNDS THE
6 ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE PROGRAM FOR THE
7 STATE FISCAL YEAR.

8 (3) The division OF HOUSING AND THE DIVISION OF LOCAL
9 GOVERNMENT shall expend the money transferred to the support fund in
10 section 29-32-103 (1) to support the following programs only:

11 (a) An affordable home ownership program administered by the
12 division or one or more contractors of the division. The program shall
13 offer home ownership down-payment assistance to first-time homebuyers
14 and shall prioritize assistance, to the extent practicable, to first-generation
15 homebuyers. The assistance shall be provided to households with income
16 less than or equal to 120% of the area median income of households of
17 that size in the territory or jurisdiction of local government OR TRIBAL
18 GOVERNMENT in which the housing is located, as calculated and published
19 for a given year by the United States Department of Housing and Urban
20 Development, AND THE COST OF THE MONTHLY HOUSING PAYMENT
21 TOWARDS MORTGAGE PRINCIPAL, MORTGAGE INTEREST, PROPERTY TAXES,
22 MORTGAGE AND HOMEOWNER'S INSURANCE, HOMEOWNER ASSOCIATION
23 FEES, LAND LEASE FEES, AND METROPOLITAN DISTRICT FEES SHALL NOT
24 COST MORE THAN 35% OF MONTHLY HOUSEHOLD INCOME. The program
25 shall also make grants or loans to non-profits, LOCAL GOVERNMENTS,
26 TRIBAL GOVERNMENTS, COMMUNITY DEVELOPMENT FINANCIAL
27 INSTITUTIONS, and community land trusts to support affordable home

1 ownership. and THE PROGRAM SHALL ALSO MAKE GRANTS OR LOANS to
2 groups or associations of mobile home owners AND THEIR ASSIGNEES to
3 assist them with the purchase of a mobile home park pursuant to section
4 38-12-217. Said grants and loans shall be used to support affordable
5 home ownership for households with income less than or equal to 100%
6 of the area median income of households of that size in the territory or
7 jurisdiction of local government OR TRIBAL GOVERNMENT in which the
8 households are located, as calculated and published for a given year by
9 the United States Department of Housing and Urban Development, AND
10 THE COST OF THE MONTHLY HOUSING PAYMENT TOWARDS MORTGAGE
11 PRINCIPAL, MORTGAGE INTEREST, PROPERTY TAXES, MORTGAGE AND
12 HOMEOWNER'S INSURANCE, HOMEOWNER ASSOCIATION FEES, LAND LEASE
13 FEES, AND METROPOLITAN DISTRICT FEES SHALL NOT COST MORE THAN
14 35% OF MONTHLY HOUSEHOLD INCOME. All principal and interest
15 payments on loans made under this paragraph (a) shall be paid to the
16 division and used by the ~~administrator~~ DIVISION for the purposes set forth
17 in this subsection (3). Up to 50% of monies transferred to ~~the division~~
18 ~~from~~ the SUPPORT fund annually may be used for the program. The
19 division shall determine how much of the available funding shall be
20 allocated to each aspect of the program. The division may utilize up to
21 5% of the funds it ~~receives~~ ALLOCATES from the fund for the program
22 ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs
23 of administering the program.

24 (b) A program serving persons experiencing homelessness to be
25 administered by the division. The program shall provide rental assistance,
26 housing vouchers, and eviction defense assistance, including legal,
27 financial, and case management, to persons experiencing homelessness

1 or at risk of experiencing homelessness. The program shall also make
2 grants or loans to non-profit organizations, local governments, TRIBAL
3 GOVERNMENTS, or private entities to support the development and
4 preservation of supportive housing for persons experiencing
5 homelessness, and other homelessness related activities the division
6 determines contribute to the resolution of or prevention of homelessness,
7 including housing programs paid for by non-profit organizations, local
8 governments, TRIBAL GOVERNMENTS, or private entities on a pay for
9 success basis, meaning an organization, local government, TRIBAL
10 GOVERNMENT, or private entity would receive financial support from the
11 program upon achieving objectives contractually agreed upon with the
12 division. All principal and interest payments on loans made under this
13 paragraph (b) shall be paid to the division and used by the ~~administrator~~
14 DIVISION for the purposes set forth in this subsection (3). Up to 45% of
15 monies transferred to ~~the division from~~ the SUPPORT fund annually may
16 be used for the program. The division may utilize up to 5% of the funds
17 it ~~receives~~ ALLOCATES from the fund for the program ~~annually~~ EACH
18 STATE FISCAL YEAR to pay for the direct and indirect costs of
19 administering the program.

20 (c) A local planning capacity development program administered
21 by the division OF LOCAL GOVERNMENT. The program shall provide grants
22 to local governments AND TRIBAL GOVERNMENTS to increase the capacity
23 of local government AND TRIBAL GOVERNMENT planning departments
24 responsible for processing land use, permitting and zoning applications
25 for housing projects. Up to 5% of monies transferred to ~~the division from~~
26 the SUPPORT fund annually may be used for the program. The division OF
27 LOCAL GOVERNMENT may utilize up to 5% of the funds ~~it receives~~ THAT

1 THE DIVISION OF HOUSING ALLOCATES from the fund for the program
2 ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs
3 of administering the program.

4 (4) ON OR BEFORE OCTOBER 1, 2024, AND OCTOBER 1 OF THE
5 NEXT TWO YEARS THEREAFTER, THE OFFICE AND DIVISION SHALL
6 RESPECTIVELY PROVIDE TO THE JOINT BUDGET COMMITTEE, THE SENATE
7 LOCAL GOVERNMENT AND HOUSING COMMITTEE, AND THE HOUSE OF
8 REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT
9 COMMITTEE, OR SUCCESSOR COMMITTEES, A REPORT ABOUT THE
10 DISBURSEMENTS FROM THE FINANCING FUND AND SUPPORT FUND FOR THE
11 PRIOR STATE FISCAL YEAR. IN THE REPORTS, THE OFFICE AND THE DIVISION
12 SHALL INCLUDE THE FOLLOWING INFORMATION ABOUT EACH AFFORDABLE
13 HOUSING PROGRAM:

14 (a) THE APPLICANTS FOR FUNDING, THE PROJECTS FUNDED, AND
15 THE PROJECTS THAT WERE DENIED, ALONG WITH THE REASON FOR THE
16 DENIAL;

17 (b) THE ANTICIPATED OR ACTUAL NUMBER OF HOUSEHOLDS
18 SERVED AND THE NUMBER OF AFFORDABLE HOUSING RENTAL UNITS AND
19 FOR-SALE UNITS FUNDED; AND

20 (c) THE GEOGRAPHIC DISTRIBUTION OF THE FUNDING.

21 **SECTION 4.** In Colorado Revised Statutes, 29-32-105, **amend**
22 (1)(a), (1)(b), (1)(c) introductory portion, (1)(d), (1)(e), (2)(a), (2)(b),
23 (2)(c), and (3) as follows:

24 **29-32-105. Affordable housing commitments - local**
25 **governments - tribal governments - three-year commitment cycle -**
26 **expedited development approval process - eligibility for assistance**
27 **from the fund.** (1) (a) Not later than November 1, 2023, the governing

1 body of each local government, other than local housing authorities, OR
2 TRIBAL GOVERNMENT desiring to receive funding under this ~~section~~
3 ARTICLE or desiring to make affordable housing projects within its
4 territorial boundaries eligible for funding under this ~~section~~ ARTICLE shall
5 make and file with the division a commitment specifying how, by
6 December 31, 2026, the combined number of newly constructed
7 affordable housing units and existing units converted to affordable
8 housing, within its territorial boundaries shall be increased by three
9 percent each year over the baseline number of affordable housing units
10 within its territorial boundaries, determined as provided in subsection
11 (1)(c) of this section.

12 (b) In the case of a county, the requirements of this subsection (1)
13 only apply to the unincorporated areas of the county, EXCEPT AS SET
14 FORTH IN SUBSECTION (3)(d)(II) OF THIS SECTION.

15 (c) The baseline number of affordable housing units within the
16 territorial boundaries of a local government OR TRIBAL GOVERNMENT, as
17 referenced in this subsection (1), shall be determined by the local
18 government OR TRIBAL GOVERNMENT by reference to:

19 (d) By November 1, 2026 and by November 1st of each
20 subsequent year in which the baseline resets, the governing body of each
21 local government, other than local housing authorities, OR TRIBAL
22 GOVERNMENT desiring to receive funding under this ~~section~~ ARTICLE or
23 desiring to make affordable housing projects within its territorial
24 boundaries eligible for funding under this ~~section~~ ARTICLE shall make and
25 file with the division a commitment specifying how, by December 31 of
26 the third year thereafter, the combined number of newly constructed
27 affordable housing units and existing units converted to affordable

1 housing, within its territorial boundaries shall be increased by three
2 percent each year over the baseline number of affordable housing units
3 within its territorial boundaries determined as provided in subsection
4 (1)(c) of this section.

5 (e) In drafting and enacting commitments under this subsection
6 (1) local governments AND TRIBAL GOVERNMENTS should prioritize
7 high-density housing, mixed-income housing, and projects consistent with
8 the goal of environmental sustainability, when appropriate, and should
9 prioritize affordable housing in communities in which low concentrations
10 of affordable housing exist.

11 (2) (a) In order to receive financial assistance under this article,
12 or for affordable housing projects within a TRIBAL GOVERNMENT,
13 municipality, a city and county, or the unincorporated area of a county to
14 be eligible for funding, the TRIBAL GOVERNMENT OR local government,
15 other than a local affordable housing authority, must establish processes
16 to enable it to provide a final decision on any application for a special
17 permit, variance, or other development permit, excluding subdivisions, of
18 a development project for which fifty percent or more of the residential
19 units in the development constitute affordable housing not more than
20 ninety calendar days after submission of a complete application, referred
21 to herein as a "fast-track approval process."

22 (b) A local government's OR TRIBAL GOVERNMENT'S fast-track
23 approval process may include an option to extend the review period for
24 an additional ninety days at the request of a developer, for compliance
25 with state law or court order, or for a review period required by another
26 local government, TRIBAL GOVERNMENT, or agency, within the local
27 government OR TRIBAL GOVERNMENT or outside, for any component of

1 the application requiring that government's or agency's approval.

2 (c) A local government's OR TRIBAL GOVERNMENT'S fast-track
3 approval process may include extensions to allow for the submission of
4 additional information or revisions to an application in response to
5 requests from the local government OR TRIBAL GOVERNMENT. Such
6 extensions shall not exceed the amount of time from the request to the
7 submission of the applicant's response plus thirty days. Applicants shall
8 provide such additional information or responses promptly and shall,
9 whenever practicable, provide a response within five business days.

10 (3) (a) Beginning in 2027, to be eligible under this article for
11 direct funding, or for affordable housing projects within a local
12 government's OR TRIBAL GOVERNMENT'S territorial boundaries to be
13 eligible for funding, local governments, other than local housing
14 authorities, OR TRIBAL GOVERNMENTS must satisfy both the requirements
15 of subsection (1) of this section to commit to and achieve annual
16 increases in the number of affordable housing units within their territorial
17 boundaries, and the requirements of subsection (2) of this section to
18 implement a system to expedite the development approval process for
19 affordable housing projects.

20 (b) (I) If a local government OR TRIBAL GOVERNMENT makes and
21 files with the division the commitment required by subsection (1) of this
22 section by November 1, 2023, it shall be deemed to have satisfied the
23 requirements of subsection (1) of this section through December 31,
24 2026.

25 (II) If a local government OR TRIBAL GOVERNMENT makes and
26 files with the division the commitment required by subsection (1) of this
27 section by November 1, 2026, or by November 1ST of a subsequent year

1 in which the baseline resets, and it met its commitment to increase
2 affordable housing made under subsection (1) of this section for the
3 previous three-year cycle, it shall be deemed to have satisfied the
4 requirements of subsection (1) of this section through the end of the
5 current three-year cycle.

6 (III) If a local government, other than a local housing authority,
7 OR TRIBAL GOVERNMENT fails to make and file with the division the
8 commitment required by subsection (1) of this section by November 1,
9 2023, or by November 1ST of a subsequent year in which the baseline
10 resets, it shall be ineligible to receive financial assistance from the
11 division or administrator during the following calendar year.

12 (IV) If a local government OR TRIBAL GOVERNMENT fails to meet
13 its commitment to increase affordable housing made and filed pursuant
14 to subsection (1) of this section for any three-year cycle, it shall be
15 ineligible to receive financial assistance from the division or
16 administrator during the first calendar year of the next three-year cycle.

17 (V) An ineligible local government OR TRIBAL GOVERNMENT may
18 apply for a subsequent year with a new commitment under subsection (1)
19 of this section for the balance of the then-current three-year cycle.

20 (VI) A developer, whether for-profit or nonprofit, or a local
21 government OR TRIBAL GOVERNMENT developing an affordable housing
22 project within the territorial boundaries of a local government OR TRIBAL
23 GOVERNMENT that fails to meet the requirements of subsection (1) or (2)
24 of this section shall be ineligible to receive financial assistance from the
25 division or administrator. Notwithstanding this restriction, a project
26 within the territorial boundaries of an eligible municipality shall be
27 eligible for funding even if the county in which the project is located is

1 ineligible.

2 (VII) Ineligible local governments AND TRIBAL GOVERNMENTS
3 AND developers of projects in ineligible local government AND TRIBAL
4 GOVERNMENT jurisdictions shall not be required to pay back to the
5 division or the administrator money paid to them under this article prior
6 to ineligibility.

7 (d) (I) The division shall be responsible for determining
8 compliance with this section. For the purpose of calculating whether a
9 local government OR TRIBAL GOVERNMENT has met the requirements of
10 subsection (1) of this section, a new residential housing unit is to be
11 counted at the time it is permitted rather than the time it is constructed.
12 An existing housing unit newly qualifying as affordable housing is to be
13 counted at the time it is permitted and fully funded rather than at the time
14 the conversion is completed. For the purpose of calculating whether a
15 local government OR TRIBAL GOVERNMENT has met the requirements of
16 subsection (1) of this section, in addition to affordable housing growth
17 achieved through the programs in this article, any new deed restricted
18 affordable housing, newly constructed or converted to affordable, within
19 a local government's OR TRIBAL GOVERNMENT'S territorial boundaries
20 shall be counted toward the local government's OR TRIBAL GOVERNMENT'S
21 growth requirement. ~~Affordable housing growth in another jurisdiction~~
22 ~~resulting directly from a local government's funding of such affordable~~
23 ~~housing in cooperation with another local government shall be attributed~~
24 ~~to a local government in proportion to the funding provided by the local~~
25 ~~government to such housing.~~ FOR THE PURPOSE OF CALCULATING
26 WHETHER A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT HAS MET THE
27 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, ALL UNITS FUNDED

1 THROUGH THE PROGRAMS CREATED IN SECTION 29-32-104 (1)(b),
2 (1)(c)(I), (1)(c)(II), AND (1)(c)(III) ARE COUNTED TOWARDS THE LOCAL
3 GOVERNMENT'S OR TRIBAL GOVERNMENT'S GROWTH REQUIREMENT.

4 (II) REGIONAL COLLABORATION AND PARTNERSHIP IS
5 ENCOURAGED. LOCAL GOVERNMENTS AND TRIBAL GOVERNMENTS MAY
6 ENTER INTO WRITTEN AGREEMENTS WITH OTHER LOCAL GOVERNMENTS
7 AND TRIBAL GOVERNMENTS THAT ALLOW EACH JURISDICTION TO RECEIVE
8 PARTIAL CREDIT TOWARDS THE LOCAL GOVERNMENT'S OR TRIBAL
9 GOVERNMENT'S GROWTH REQUIREMENT FOR THE PURPOSE OF
10 CALCULATING WHETHER A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT
11 HAS MET THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION. THE
12 SUM OF THE TOTAL UNITS CREDITED TO THE LOCAL GOVERNMENTS AND
13 TRIBAL GOVERNMENTS SHALL NOT EXCEED THE TOTAL NUMBER OF UNITS
14 PRODUCED THROUGH THE COLLABORATION.

15 **SECTION 5.** In Colorado Revised Statutes, **add** 29-32-105.5 as
16 follows:

17 **29-32-105.5. Alternative eligibility for programs - rural resort**
18 **community - petition - legislative declaration - definition.** (1) (a) THE
19 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

20 (I) THE LACK OF AFFORDABLE HOUSING IS AN ISSUE THROUGHOUT
21 THE STATE, AND VOTERS THROUGHOUT THE STATE VOTED IN FAVOR OF
22 PROPOSITION 123 AT THE STATEWIDE GENERAL ELECTION IN 2022 TO
23 ADDRESS THIS ISSUE;

24 (II) THE STATE INCOME TAX REVENUE THAT IS THE DEDICATED
25 SOURCE OF FUNDING FOR THE AFFORDABLE HOUSING PROGRAMS CREATED
26 IN THIS ARTICLE SHOULD BE AVAILABLE TO ALL ELIGIBLE COMMUNITIES IN
27 THE STATE; AND

1 (III) COLORADANS SHOULD BE ABLE TO LIVE WHERE THEY
2 WORK AND NOT HAVE TO SPEND MORE THAN THIRTY PERCENT OF THEIR
3 INCOME ON HOUSING COSTS, ESPECIALLY IN RURAL AND RURAL RESORT
4 COMMUNITIES WHERE HOUSING NEEDS ARE UNIQUE.

5 (b) THEREFORE, IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE
6 PETITION PROCESS ESTABLISHED IN THIS SECTION HELPS TO ENSURE THAT
7 ELIGIBLE RURAL RESORT COMMUNITIES ARE ABLE TO RECEIVE FUNDING
8 FOR AFFORDABLE HOUSING PROJECTS THAT MEET THE DEMONSTRATED
9 HOUSING NEEDS OF THEIR COMMUNITIES.

10 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES, "PETITION" MEANS A PETITION SUBMITTED BY A RURAL RESORT
12 COMMUNITY TO THE DIVISION IN ACCORDANCE WITH SUBSECTION (3) OF
13 THIS SECTION.

14 (3) NOTWITHSTANDING THE REQUIREMENTS SET FORTH IN SECTION
15 29-32-104 (1), A RURAL RESORT COMMUNITY MAY, BASED ON THE
16 AVERAGE NEEDS IDENTIFIED IN A HOUSING NEEDS ASSESSMENT, PETITION
17 THE DIVISION TO USE DIFFERENT PERCENTAGES OF AREA MEDIAN INCOME
18 THAN THOSE PERCENTAGES SPECIFIED FOR ELIGIBILITY FOR A GIVEN
19 FUNDING CYCLE FOR:

- 20 (a) THE LAND BANKING PROGRAM;
- 21 (b) THE AFFORDABLE HOUSING EQUITY PROGRAM; AND
- 22 (c) DEBT FINANCING PROGRAMS THAT ARE PART OF THE
- 23 CONCESSIONARY DEBT PROGRAM SPECIFIED IN SECTION 29-32-104 (1)(c)(I)
- 24 AND (1)(c)(III).

25 (4) THE DIVISION SHALL POST NOTICE THAT A PETITION HAS BEEN
26 FILED ON THE DIVISION'S WEBSITE AND SHALL ESTABLISH A PROCEDURE
27 FOR RECEIVING PUBLIC COMMENTS ON A PETITION, INCLUDING COMMENTS

1 THROUGH THE DIVISION'S WEBSITE. THE DIVISION SHALL CONSIDER THE
2 PUBLIC COMMENTS WHEN CONSIDERING THE PETITION.

3 (5) THE DIVISION MAY APPROVE THE PETITION TO USE DIFFERENT
4 PERCENTAGES OF AREA MEDIAN INCOME, BUT ONLY IF:

5 (a) THE SUBMITTED HOUSING NEEDS ASSESSMENT:

6 (I) IS PUBLISHED BY THE STATE OR IS A LOCAL HOUSING NEEDS
7 ASSESSMENT THAT UTILIZES DATA FROM THE STATE DEMOGRAPHER OR
8 OTHER PUBLICLY ACCESSIBLE SOURCES, WHICH IN EITHER CASE MAY BE
9 SUPPORTED BY OTHER RELEVANT AND VERIFIABLE COMMUNITY DATA; ==

10 (II) HAS BEEN COMPLETED WITHIN THE PAST THREE YEARS OF THE
11 PETITION DATE; AND

12 (III) IS ACCOMPANIED BY A NARRATIVE DESCRIPTION OF WHY
13 OTHER FUNDING SOURCES CANNOT BE UTILIZED, ARE NOT SUFFICIENT, OR
14 ARE NOT ACCESSIBLE TO MEET THE HOUSING NEEDS DESCRIBED WITHIN
15 THE PETITION; AND

16 (b) THE DIVISION DETERMINES THAT THE CURRENT ELIGIBILITY
17 STANDARDS WOULD CAUSE IMPLEMENTATION OF THIS ARTICLE IN A
18 MANNER INCONSISTENT WITH DEMONSTRATED HOUSING AND WORKFORCE
19 NEEDS WITHIN THE JURISDICTION, TAKING INTO CONSIDERATION REGIONAL
20 WORKFORCE COMMUTING TRENDS.

21 (6) IF THE DIVISION GRANTS THE PETITION, THE DIVISION SHALL
22 ESTABLISH THE PERCENTAGES OF AREA MEDIAN INCOME BASED ON THE
23 AVERAGE NEEDS IDENTIFIED IN A HOUSING NEEDS ASSESSMENT. A RURAL
24 RESORT COMMUNITY MAY APPLY FOR MORE THAN ONE PROGRAM IN A
25 PETITION.

26 (7) THE APPROVAL OF A RURAL RESORT COMMUNITY'S PETITION
27 DOES NOT AFFECT THE ADMINISTRATOR'S OBLIGATION IN SELECTING

1 INVESTMENTS THAT PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME
2 HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL
3 SUSTAINABILITY. A PROJECT MUST STILL MEET THE RURAL RESORT
4 COMMUNITY'S DEMONSTRATED HOUSING NEEDS.

5 **SECTION 6.** In Colorado Revised Statutes, **amend** 29-32-106 as
6 follows:

7 **29-32-106. Maintenance of effort.** (1) For any state fiscal year
8 in which money is appropriated from the FINANCING fund OR THE
9 SUPPORT FUND in accordance with the requirements of this article, any
10 such money appropriated must supplement and shall not supplant the
11 level of general fund and cash fund appropriations for affordable housing
12 programs ~~as of~~ FOR the state fiscal year 2022-23.

13 (2) FOR PURPOSES OF DETERMINING THE APPROPRIATIONS FOR
14 AFFORDABLE HOUSING PROGRAMS FOR THE STATE FISCAL YEAR 2022-23,
15 CASH FUND APPROPRIATIONS DO NOT INCLUDE ANY APPROPRIATIONS OF
16 MONEY THAT ORIGINATED FROM MONEY THE STATE RECEIVED FROM THE
17 FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND.

18 **SECTION 7. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.